

Serial No. 10/655,960

Docket: 2003P11248US

REMARKS

Claims 1 – 4, 6 – 13, 16 – 17, 21 and 24 – 25 are in the application. Claim 1 is the sole independent claim herein. No new matter has been added. Reconsideration and further examination are respectfully requested.

Claim Rejections

Claims 1, 4, 6-13, 16, 7, 21, 24, and 25 are rejected under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 7,352,856 ("Matsushashi") in view of U.S. Patent No. 7,257,126 ("Hirano"). Reconsideration and withdrawal of the rejections are respectfully requested.

§103 Rejections

Amended independent claim 1 recites a dual mode packet phone that comprises a first connector to connect the phone with a data network, a second connector to connect the phone with a backup network, a communications channel, a backup switch, and a control unit. The data network is a digital Voice-over-IP Ethernet network and the backup network is an analog network or a digital time division multiplexing (TDM) network. The communications channel sends a communication signal and the backup switch connects the communications channel to the first connector or the second connector. Moreover, the control unit monitors a first connection attempt initiated on the data network and, if a response to the first connection attempt is not received within a predetermined time, the control unit controls the backup switch to disconnect the communications channel from the first connector and connects the communication channel to the second connector.

The art of record cannot be seen to disclose or to suggest the above-mentioned features of amended independent claim 1. In particular, the art of record cannot be seen to disclose or to suggest a control unit to monitor a first connection attempt initiated on a data network and, if a response to the first connection attempt is not

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received within a predetermined time, to control a backup switch to disconnect a communications channel from a first connector and to connect the communication channel to a second connector.

Matsuhashi discloses a telephone for a PSTN network and an IP network. However, as conceded in the Office Action, Matsuhashi fails to disclose any action which depends on whether a response to a first connection attempt is not received within a predetermined time.

Hirano discloses a wireless LAN system that connects via a point coordination function ("PCF") protocol or via a distributed coordination function ("DCF") protocol as illustrated in FIG. 20A and FIG. 20B. As best understood, Hirano describes a method where a wireless network station can switch between a PCF-based system and a DCF-based system via a beacon that determines which system is active. The beacon, as illustrated in FIG. 7, comprises protected periods where each protected period is associated with either a DCF protocol or a PCF protocol. The beacon's purpose is to allow a system to communicate only via a DCF protocol or via a PCF protocol during an associated protected period.

The office action references column 16, lines 44-51. At the aforementioned section, Hirano states that if communication has not taken place using a DCF system for a predetermined time, then "the form of the wireless communication system of the present invention" (emphasis added) is switched and an unused DCF mode period can be omitted to enable effective use of resources. At best, Hirano, as illustrated in FIG. 13, only eliminates the use of the PCF portions associated with the Beacon (i.e., as illustrated by the use of the word "none"). Therefore, Hirano doesn't "switch" anything.

As stated in M.P.E.P. 2141.01(a), to rely on a reference under 35 U.S.C. 103, the reference must be analogous prior art and "[u]nder the correct analysis, any need or problem known in the field of endeavor at the time of the invention and addressed by the patent [or application at issue] can provide a reason for combining the elements in the manner claimed." *KSR International Co. v. Teleflex Inc.*, USPQ2d 1385, 1397 (2007). However, a reference "in a field different from that of applicant's endeavor may

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be reasonably pertinent if it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his or her invention as a whole." (see M.P.E.P. 2141.01(a))

In the present application, Applicant contends that that wireless network of Hirano is not analogous to the telephone of Matsushita. Specifically, the elimination of specific forms (i.e. protocols) of communication of a wireless network as disclosed in Hirano cannot be seen to compare or to relate to a dual mode phone as disclosed in Matsushita. Therefore, Applicant contends that elimination of a multi-protocol wireless network protocol would not logically have commended itself to an inventor's attention since physically connecting and disconnecting of connectors does not relate to elimination of wireless networking protocols. Therefore, the combination of Matsushita and Hirano cannot be seen to be either analogous or pertinent and is therefore improper for at least this reason.

Therefore, independent claim 1 and its related dependent claims are believed to be in condition for allowance for at least this reason.

#### Claim 17

Dependent claim 17 relates to the phone of claim 1 wherein a TDM network uses at least one of ISDN, Optiset, RolmLink, Nortel, or Avaya protocols. The Office Action states that Matsushita discloses a "Ether frame header 301" and that "Ethernet is a trademark of Xerox Corp." Applicants respectfully point out that Ethernet is not a time division multiplexing networking protocol as well known in the art. Specifically, as known in the art, Ethernet is based on a carrier sense multiple access scheme with collision detection (CSMA/CD) to govern sharing of a computer network. Moreover, CSMA/CD does not operate via time division multiplexing. In view of the foregoing, dependent claim 17 is believed to be in condition for allowance.

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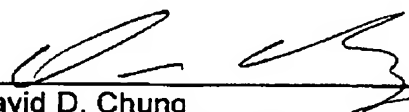
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### CONCLUSION

Accordingly, Applicant respectfully requests allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (408) 492-5336.

Respectfully submitted,

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Date

  
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